

To the Chancery Clerk of the First Judicial District of DeSoto County, Mississippi:

The real property described herein is situated in the NW Quarter of the \_\_\_\_\_ of Quarter of Section 6, Township 2 South, Range 7 W of the First Judicial District of DeSoto County, Mississippi.

### ASSIGNMENT OF LEASES AND RENTS

Dated as of November 21, 1997

MID-AMERICA CAPITAL PARTNERS, L.P.  
(Trustor)

TO

LASALLE NATIONAL BANK,  
as Trustee under that certain Indenture dated November 21, 1997  
(Beneficiary)

#### LOCATION OF PROPERTY:

385 Nail Road East  
Southaven, Mississippi 38671

Prepared By and  
When Recorded, Return To:  
Cadwalader, Wickersham & Taft  
100 Maiden Lane  
New York, New York 10038  
Attention: Andrew J. Linder, Esq.  
Phone (212) 504-6000

STATE MS.-DE SOTO CO. *ms*  
FILED

Nov 25 11 41 AM '97

BK 76 PG 160  
W.E. DAVIS CH CLK.

**THIS ASSIGNMENT OF LEASES AND RENTS ("Assignment")** made as of November 21, 1997, by **MID-AMERICA CAPITAL PARTNERS, L.P.**, a Delaware limited partnership having its principal place of business at 1209 Orange Street, Wilmington, Delaware 19801 ("**Assignor**"), to **LASALLE NATIONAL BANK**, a national banking association having its principal place of business at 135 South LaSalle Street, Chicago, Illinois 60674-4107, as trustee under that certain Indenture dated November 21, 1997 ("**Assignee**").

**WITNESSETH:**

THAT Assignor for good and valuable consideration, receipt whereof is hereby acknowledged, hereby grants, transfers and absolutely and unconditionally assigns to Assignee the entire lessor's interest in and to all current and future leases and other agreements affecting the use, enjoyment, or occupancy of all or any part of that certain lot or piece of land, more particularly described in Exhibit A hereto, together with the buildings, structures, fixtures, additions, enlargements, extensions, modifications, repairs, replacements and improvements now or hereafter located thereon (hereinafter collectively referred to as the "**Trust Property**") (including any use or occupancy arrangements created pursuant to Section 365(h) of Title 11 of the United States Code (the "**Bankruptcy Code**") or otherwise in connection with the commencement or continuance of any bankruptcy, reorganization, arrangement, insolvency, dissolution, receivership or similar proceedings, or any assignment for the benefit of creditors, in respect of any tenant or occupant of any portion of the Trust Property), together with any extension or renewal of the same (the leases and other agreements described above together with all other present and future leases and present and future agreements and any extension or renewal of the same are hereinafter collectively referred to as the "**Leases**");

TOGETHER WITH all rents, income, issues, revenues and profits arising from the Leases and renewals thereof and together with all rents, income, issues and profits (including, but not limited to, all oil and gas or other mineral royalties and bonuses) from the use, enjoyment and occupancy of the Trust Property (including any payments received pursuant to Section 502(b) of the Bankruptcy Code or otherwise in connection with the commencement or continuance of any bankruptcy, reorganization, arrangement, insolvency, dissolution, receivership or similar proceedings, or any assignment for the benefit of creditors, in respect of any tenant or occupant of any portion of the Trust Property and all claims as a creditor in connection with any of the foregoing) (hereinafter collectively referred to as the "**Rents**") and all proceeds from the sale, cancellation, surrender or other disposition of the Leases and the right to receive and apply the Rents to the payment of the Debt (as hereinafter defined).

THIS ASSIGNMENT is made in consideration of those certain notes in the aggregate principal sum of up to \$150,000,000 made by Assignor pursuant to that certain Indenture dated November 21, 1997 made by and among Assignor, Assignee and Mid-America Apartments, L.P. (the "**Indenture**") and secured by that certain deed of trust, assignment of leases and rents and security agreement given by Assignor to Assignee, dated

the date hereof covering the Trust Property and intended to be duly recorded (the "Deed of Trust"; the principal sum, interest and all other sums due and payable under the Note (as defined in the Deed of Trust) and Deed of Trust are hereinafter collectively referred to as the "Debt". This Assignment, the Note, the Deed of Trust, the Indenture and any other documents now or hereafter executed by Assignor and/or others and by or in favor of Assignee which evidences, secures or guarantees all or any portion of the payments due under the Note or otherwise is executed and/or delivered in connection with the Note and the Deed of Trust are hereinafter referred to as the "Loan Documents.")

ASSIGNOR WARRANTS that (A) Assignor is the sole owner of the entire lessor's interest in the Leases; (B) none of the Leases or Rents have been assigned or otherwise pledged or hypothecated; (C) no person has any possessory interest in the Trust Property or right to occupy the same except under and pursuant to the provisions of the leases (the "Existing Leases") described in the rent roll delivered to Assignee in connection with the Loan (such rent roll, together with any past due listings, prepaid registers or other reports relating to the Existing Leases, being the "Rent Roll"); (D) the Existing Leases are in full force and effect, valid and enforceable and no material term thereof has been modified; (E) except as set forth in the Rent Roll, the Rents due under the Existing Leases have been paid through the current month and have not been collected for more than one (1) month in advance; (F) the premises demised under the Existing Leases have been completed and the tenants under the Existing Leases have accepted the same and have taken possession of the same on a rent-paying basis; (G) to the best of Assignor's knowledge, Assignor has received no written notice since the date of the Rent Roll of any offsets or defenses to the payment of a material portion of the Rents under the Existing Leases; (H) all Existing Leases having a term in excess of three (3) years are subordinate to the Deed of Trust and (I) Assignor has full power and authority to execute and deliver this Assignment and the execution and delivery of this Assignment has been duly authorized and does not conflict with or constitute a default under any law, judicial order or other agreement affecting Assignor or the Trust Property.

ASSIGNOR COVENANTS with Assignee that Assignor shall (A) observe and perform all the material obligations imposed upon the lessor under the Leases in all material respects in accordance with sound business practices and shall not do or permit to be done anything to impair the value of the Leases as security for the Debt; (B) if requested by Assignee following and during the continuance of an Event of Default, promptly send copies to Assignee of all notices of default which Assignor shall send or receive thereunder; (C) enforce all of the material terms, covenants and conditions contained in the Leases upon the part of the lessee thereunder to be observed and performed in accordance with sound business practices; (D) not execute any other assignment of, or otherwise further assign or encumber, the lessor's interest in the Leases or the Rents; and (E) execute and deliver at the request of Assignee all such further assurances, confirmations and assignments in connection with the Trust Property as Assignee shall from time to time reasonably require.

ASSIGNOR FURTHER COVENANTS with Assignee that Assignor shall not, without the prior consent of Assignee, EXCEPT AS AND TO THE EXTENT PERMITTED

UNDER THE DEED OF TRUST, (i) enter into any Lease of all or any part of the Trust Property, (ii) cancel, terminate, abridge or otherwise modify the terms of any Lease, or accept a surrender thereof, (iii) consent to any assignment of or subletting under any Lease not in accordance with its terms, (iv) cancel, terminate, abridge or otherwise modify any guaranty of any Lease or the terms thereof, or (v) accept payments of Rents for a period of more than one (1) month in advance.

THIS ASSIGNMENT is made on the following terms, covenants and conditions:

1. **Present Assignment.** Assignor does hereby absolutely and unconditionally assign to Assignee Assignor's right, title and interest in all current and future Leases and Rents, it being intended by Assignor that this assignment constitutes a present, absolute and unconditional assignment and not an assignment for additional security only. Such assignment to Assignee shall not be construed to bind Assignee to the performance of any of the covenants, conditions, or provisions contained in any such Lease or otherwise to impose any obligation upon Assignee. Assignor agrees to execute and deliver to Assignee such additional instruments, in form and substance satisfactory to Assignee, as may hereinafter be requested by Assignee to further evidence and confirm said assignment. Nevertheless, subject to the terms of this paragraph, Assignee grants to Assignor a revocable license to operate and manage the Trust Property and to collect the Rents. Assignor shall hold the Rents, or a portion thereof, sufficient to discharge all current sums due on the Debt for use in the payment of such sums. Upon an Event of Default (as defined in the Deed of Trust), the license granted to Assignor herein shall automatically be revoked by Assignee and Assignee shall immediately be entitled to receive and apply all Rents, whether or not Assignee enters upon and takes control of the Trust Property. Assignee and Trustee (as defined in the Deed of Trust) are hereby granted and assigned by Assignor the right, at its option, upon the revocation of the license granted herein to enter upon the Trust Property in person, by agent or by court-appointed receiver to collect the Rents. Any Rents collected after the revocation of the license herein granted may be applied toward payment of the Debt in such priority and proportion as Assignee, in its discretion, shall deem proper.

2. **Remedies of Assignee.** Upon or at any time after an Event of Default, Assignee may, at its option, without waiving such Event of Default, without notice and without regard to the adequacy of the security for the Debt, either in person or by agent, with or without bringing any action or proceeding, or by a receiver appointed by a court, take possession of the Trust Property and have, hold, manage, lease and operate the Trust Property on such terms and for such period of time as Assignee may deem proper and either with or without taking possession of the Trust Property in its own name, demand, sue for or otherwise collect and receive all Rents, including those past due and unpaid, with full power to make from time to time all alterations, renovations, repairs or replacements thereto or thereof as may seem proper to Assignee and may apply the Rents to the payment of the following in such order and proportion as Assignee in its sole discretion may determine, any law, custom or use to the contrary notwithstanding: (a) all expenses of managing and securing the Trust Property,

including, without being limited thereto, the salaries, fees and wages of a managing agent and such other employees or agents as Assignee may deem necessary or desirable and all expenses of operating and maintaining the Trust Property, including, without being limited thereto, all taxes, charges, claims, assessments, water charges, sewer rents and any other liens, and premiums for all insurance which Assignee may deem necessary or desirable, and the cost of all alterations, renovations, repairs or replacements, and all expenses incident to taking and retaining possession of the Trust Property; and (b) the Debt, together with all costs and attorneys' fees. In addition to the rights which Assignee may have herein, upon the occurrence of an Event of Default, Assignee, at its option, may either require Assignor to pay monthly in advance to Assignee, or any receiver appointed to collect the Rents, the fair and reasonable rental value for the use and occupation of such part of the Trust Property as may be in possession of Assignor or require Assignor to vacate and surrender possession of the Trust Property to Assignee or to such receiver and, in default thereof, Assignor may be evicted by summary proceedings or otherwise. Additionally, Assignee shall have the right to establish a lock box for the deposit of all Rents and other receivables of Assignor relating to the Trust Property. For purposes of paragraphs 1 and 2 hereof, Assignor grants to Assignee its irrevocable power of attorney, coupled with an interest, to take any and all of the aforementioned actions and any or all other actions designated by Assignee for the proper management and preservation of the Trust Property. The exercise by Assignee of the option granted it in this paragraph and the collection of the Rents and the application thereof as herein provided shall not be considered a waiver of any default by Assignor under the Note, the Deed of Trust, the Leases, this Assignment or the other Loan Documents.

3. **No Liability of Assignee.** Assignee shall not be liable for any loss sustained by Assignor resulting from Assignee's failure to let the Trust Property after an Event of Default or from any other act or omission of Assignee in managing the Trust Property after an Event of Default. Assignee shall not be obligated to perform or discharge any obligation, duty or liability under the Leases or under or by reason of this Assignment and Assignor shall, and hereby agrees, to indemnify Assignee for, and to hold Assignee and its employees, directors, officers, agents and "control persons" within the meaning of the Securities Act and the Exchange Act harmless from, any and all liability, loss or damage which may or might be incurred under the Leases or under or by reason of this Assignment and from any and all claims and demands whatsoever, including the defense of any such claims or demands which may be asserted against Assignee by reason of any alleged obligations and undertakings on its part to perform or discharge any of the terms, covenants or agreements contained in the Leases, unless due to Assignee's gross negligence or willful misconduct. Should Assignee or any of its employees, directors, officers, agents and "control persons" within the meaning of the Securities Act and the Exchange Act incur any such liability, the amount thereof, including costs, expenses and attorneys' fees, shall be secured hereby and by the Deed of Trust and the other Loan Documents and Assignor shall reimburse Assignee therefor immediately upon demand and upon the failure of Assignor so to do Assignee may, at its option, declare all sums secured hereby, the Note, the Deed of Trust and the other Loan Documents immediately due and payable. This Assignment shall not operate to place any obligation or liability for the control, care, management or repair of the Trust Property upon Assignee, nor for the carrying

out of any of the terms and conditions of the Leases; nor shall it operate to make Assignee responsible or liable for any waste committed on the Trust Property by the tenants or any other parties, or for any dangerous or defective condition of the Trust Property, including, without limitation, the presence of any Hazardous Substances (as defined in the Deed of Trust), or for any negligence in the management, upkeep, repair or control of the Trust Property resulting in loss or injury or death to any tenant, licensee, employee or stranger.

4. **Notice to Lessees.** Assignor hereby authorizes and directs the tenants named in the Leases or any other or future tenants or occupants of the Trust Property upon receipt from Assignee or its agent of written notice to the effect that the Assignee is then the beneficiary under the Deed of Trust and that a default exists thereunder or under this Assignment, the Note, the Deed of Trust or the other Loan Documents to pay over to Assignee all Rents and to continue so to do until otherwise notified by Assignee.

5. **Other Security.** Assignee may take or release other security for the payment of the Debt, may release any party primarily or secondarily liable therefor and may apply any other security held by it to the reduction or satisfaction of the Debt without prejudice to any of its rights under this Assignment.

6. **Other Remedies.** Nothing contained in this Assignment and no act done or omitted by Assignee pursuant to the power and rights granted to Assignee hereunder shall be deemed to be a waiver by Assignee of its rights and remedies under the Note, the Deed of Trust or the other Loan Documents and this Assignment is made and accepted without prejudice to any of the rights and remedies possessed by Assignee under the terms thereof. The right of Assignee to collect the Debt and to enforce any other security therefor held by it may be exercised by Assignee either prior to, simultaneously with, or subsequent to any action taken by it hereunder.

7. **No Mortgagee in Possession.** Nothing herein contained shall be construed as constituting Assignee a "mortgagee in possession" in the absence of the taking of actual possession of the Trust Property by Assignee. In the exercise of the powers herein granted Assignee, no liability shall be asserted or enforced against Assignee, all such liability being expressly waived and released by Assignor.

8. **Conflict of Terms.** In case of any conflict between the terms of this Assignment and the terms of the Deed of Trust, the terms of the Deed of Trust shall prevail.

9. **No Oral Change.** This Assignment and any provisions hereof may not be modified, amended, waived, extended, changed, discharged or terminated orally, or by any act or failure to act on the part of Assignor or Assignee, but only by an agreement in writing signed by the party against whom the enforcement of any modification, amendment, waiver, extension, change, discharge or termination is sought.

10. **Certain Definitions.** Unless the context clearly indicates a contrary intent or unless otherwise specifically provided herein, words used in this Assignment may be

used interchangeable in singular or plural form and the word "Assignor" shall mean each Assignor and any subsequent owner or owners of the Trust Property or any part thereof or any interest therein, the word "Assignee" shall mean Assignee and any subsequent holder of the Note, the word "Note" shall mean the Note and any other evidence of indebtedness secured by the Deed of Trust, the word "person" shall include an individual, corporation, partnership, trust, unincorporated association, government, governmental authority, and any other entity, the words "Trust Property" shall include any portion of the Trust Property and any interest therein; whenever the context may require, any pronouns used herein shall include the corresponding masculine, feminine or neuter forms; and the singular form of nouns and pronouns shall include the plural and vice versa.

11. **Non-Waiver.** The failure of Assignee to insist upon strict performance of any term hereof shall not be deemed to be a waiver of any term of this Assignment. Assignor shall not be relieved of Assignor's obligations hereunder by reason of (i) failure of Assignee to comply with any request of Assignor or any other party to take any action to enforce any of the provisions hereof or of the Deed of Trust, the Note or the other Loan Documents, (ii) the release regardless of consideration, of the whole or any part of the Trust Property, or (iii) any agreement or stipulation by Assignee extending the time of payment or otherwise modifying or supplementing the terms of this Assignment, the Note, the Deed of Trust or the other Loan Documents. Assignee may resort for the payment of the Debt to any other security held by Assignee in such order and manner as Assignee, in its discretion, may elect. Assignee may take any action to recover the Debt, or any portion thereof, or to enforce any covenant hereof without prejudice to the right of Assignee thereafter to enforce its rights under this Assignment. The rights of Assignee under this Assignment shall be separate, distinct and cumulative and none shall be given effect to the exclusion of the others. No act of Assignee shall be construed as an election to proceed under any one provision herein to the exclusion of any other provision.

12. **Inapplicable Provisions.** If any term, covenant or condition of this Assignment is held to be invalid, illegal or unenforceable in any respect, this Assignment shall be construed without such provision.

13. **Duplicate Originals.** This Assignment may be executed in any number of duplicate originals and each such duplicate original shall be deemed to be an original.

14. **Governing Law.** This Assignment shall be governed and construed in accordance with the laws of the State in which the real property encumbered by the Deed of Trust is located.

15. **Termination of Assignment.** Upon payment in full of the Debt and the delivery and recording of a satisfaction, release, reconveyance or discharge of the Deed of Trust duly executed by Assignee, this Assignment shall become and be void and of no effect.

16. **Exculpation.** Notwithstanding anything to the contrary contained herein, any claim based on or in respect of any liability of Assignor under the Note or this

Assignment or any other Loan Document shall be enforced only against the property and assets of Assignor and not against any separate property or assets of any partner in or of Assignor. Nothing herein shall be deemed (x) to impair the validity of the indebtedness secured by this Assignment; (y) to impair the right of Assignee as secured party to commence an action to foreclose any lien or security interest; or (z) to modify, diminish or discharge the liability of any guarantor under any guaranty.

17. **WAIVER OF JURY TRIAL.** ASSIGNOR HEREBY AGREES NOT TO ELECT A TRIAL BY JURY OF ANY ISSUE TRIABLE OF RIGHT BY JURY, AND WAIVES ANY RIGHT TO TRIAL BY JURY FULLY TO THE EXTENT THAT ANY SUCH RIGHT SHALL NOW OR HEREAFTER EXIST WITH REGARD TO THIS ASSIGNMENT, THE DEED OF TRUST OR THE OTHER LOAN DOCUMENTS OR ANY CLAIM, COUNTERCLAIM OR OTHER ACTION ARISING IN CONNECTION THEREWITH. THIS WAIVER OF RIGHT TO TRIAL BY JURY IS GIVEN KNOWINGLY AND VOLUNTARILY BY ASSIGNOR, AND IS INTENDED TO ENCOMPASS INDIVIDUALLY EACH INSTANCE AND EACH ISSUE AS TO WHICH THE RIGHT TO TRIAL BY JURY WOULD OTHERWISE ACCRUE. ASSIGNEE IS HEREBY AUTHORIZED TO FILE A COPY OF THIS PARAGRAPH IN ANY PROCEEDING AS CONCLUSIVE EVIDENCE OF THIS WAIVER BY ASSIGNOR.

THIS ASSIGNMENT shall inure to the benefit of Assignee and any subsequent holder of the Note and shall be binding upon Assignor, and Assignor's heirs, executors, administrators, successors and assigns and any subsequent owner of the Trust Property.



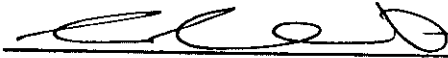
Assignor has executed this instrument the day and year first above written.

ASSIGNOR:

MID-AMERICA CAPITAL PARTNERS, L.P.

By: MAACP, Inc.  
its general partner

By



Name: Simon R. C. Wadsworth

Title: President

FORM OF ACKNOWLEDGMENT  
(Mississippi)

STATE OF GEORGIA

COUNTY OF FULTON

PERSONALLY APPEARED before me, the undersigned authority in and for the aforesaid county and state, on this 22nd day of November, 1997, the within named SIMON R. C. WADSWORTH, who acknowledged that he is the President of MAACP, INC., a Delaware corporation, which is the General Partner of MID-AMERICA CAPITAL PARTNERS, L.P., a Delaware limited partnership, and that for and on behalf of and as the act and deed of said corporation in its capacity as General Partner of said limited partnership, he executed the above and foregoing instrument after first having been duly authorized by said corporation and limited partnership so to do.

  
NOTARY PUBLIC

My commission expires:  
Notary Public, Fulton County, Georgia  
My Commission Expires Jan. 18, 2000



BOOK

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**EXHIBIT A**

**LEGAL DESCRIPTION**

Exhibit "A"

## PROPERTY DESCRIPTIONS

Savannah Creek:

Commencing at the NE corner of the NW quarter of Section 6, Township 2 South, Range 7 West of DeSoto County, Mississippi, run thence 28.3' along the north line of said Section 6 to an iron pin on the west Right-of-Way of Elmore Road; thence N 89° 18' 11" W for a distance of 686.88' along the north line of said Section 6 to a point on the north ROW line of Nail Road; thence S 00° 41' 49" W for a distance of 53.00' to the Point-of-Beginning for the following described tract of land; thence S 00° 41' 49" W for a distance of 600.00'; thence S 04° 40' 22" W for a distance of 119.43'; thence N 71° 39' 25" W for a distance of 316.45'; thence N 90° 00' 00" W for a distance of 200.00'; thence N 43° 49' 14" W for a distance of 877.44' to a point on the south ROW line of said Nail Road; thence S 89° 18' 11" E for a distance of 1,125.02' along the south ROW line of said Nail Road, back to the Point-of-Beginning of the aforescribed tract of land containing 12.056 acres more or less.

The above-described parcel of land is situated in the Northwest Quarter (NW 1/4) of Section 6, Township 2 South, Range 7 West, DeSoto County, Mississippi.

BEING the same property conveyed to Grantor (under the name Hawaii Net/sub, Inc.) by MEGA Properties Partnership by Quitclaim Deed recorded December 11, 1995 in Book 293, Page 656, of the Office of the Chancery Clerk of DeSoto County, Mississippi.